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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,303	11/10/2003	Satoshi Mizutani	20050/0200479-US0	5755
7278	7590	08/08/2005	EXAMINER	
DARBY & DARBY P.C.			REICHLER, KARIN M	
P. O. BOX 5257			ART UNIT	
NEW YORK, NY 10150-5257			PAPER NUMBER	

3761

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/706,303	Applicant(s) MIZUTANI ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10, 11 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. PCT/JP02/04886.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/01, 6/01, 7/01, 2/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the Group I invention, the finger insertion opening species of Figures 1-8, the bonding species of Figure 13D and the minisheet species of Figure 14B in the reply filed on 6-8-05 is acknowledged.

2. Claims 8, 10-11 and 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6-8-05.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

4. The drawings are objected to because in Figures 2-4, the labels X-X, Y-Y and Z-Z should be avoided. Also the cross-sectional lines, e.g. in Figure 1, X-X, Y-Y and Z-Z, should be denoted by Roman or Arabic numerals, not letters. Figures 13A-D do not show a diagram as set forth on page 15. In Figures 1-6 and 8, the line from 8 should be dashed to denote underlying structure. In Figures 10-12, 8 should clearly denote the restriction, e.g. a line from the numeral

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thereto rather than a general arrow. In Figure 20, the lines from 38 and 39 should be arrows. Figure 31 should be labeled PRIOR ART. In Figure 27, the numeral 6 should clearly denote the cavity. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract.

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6. The abstract of the disclosure is objected to because the abstract should be limited to a single paragraph. Also terminology which can be inferred, e.g. "The present invention relates to", "according to the present invention", should be avoided. Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following informalities: The specification is replete with informalities. For example: 1) On page 3, line 9, "Disclosure of the Invention" should be --Summary of the Invention--. 2) On page 31, line 19, "21" should be --38--. 3) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims is not commensurate in scope, see MPEP 608.01(d). 4) On page 18, line 8, "Best Mode of Carrying Out the Invention" should be --Detailed Description of the Invention--. 5) The use of a confusing variety of terms for the same thing should be avoided. See MPEP 608.01(o). For example, see title and page 1, lines 13-15, i.e. "Package" or "wrapping body" and "wrapping container"? The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the cooperation in placing the specification in proper form.

Appropriate correction is required.

Claim Objections

8. Claims 1-7, 9 and 12-14 are objected to because of the following informalities: In claim 1, line 4, "the" should be --a--. Lines 3-4 are grammatically incorrect. On line 5, "orientated to the body side" should be --oriented to a body side of a wearer during use--. On lines 5, 8, 12 and 14-15 delete "to body". On line 6, "orientated...side" should be --oriented to a

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garment side during use--. On line 14, delete "portion ...point) and insert --finger application point--. On line 15, delete "area...point)" and insert --application point--. On line 17, before "for", insert --,--. In claim 2, line 2, after "side", insert --,--. On line 4, delete "to body". In claim 4, line 3, delete "to body". Also are words missing on line 3, i.e. should "each other" be --to itself--? In claim 5, line 2, "said"(1st) should be --a--. On the last line "portions" should be --portion--. In claim 6, line 4, delete "to body". On lines 1-2, "an interval dimension of" should be --a distance between--. In claim 7, line 2, delete "to position" and on line 3, delete "to body". In claim 9, last line, delete "to body" and on line 4, change "end...direction" to --longitudinal end edge--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. Claims 1-7, 9 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On lines 10-12, the terminology "for directly...to body" describing the finger insertion opening is unclear. Should such language merely be deleted? Note the following paragraph.

Claim Language Interpretation

10. The claim terminology is interpreted in light of the specific definitions on page 5, lines 7-17. Any other claim language not specifically defined has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition. In claim 3, it is not set forth what "narrow" is relative to. This also applies to the terminology "mini" in claim 2. Also

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terminology “in the vicinity” in claim 1, “narrow” in claim 3, “near” in claim 7 and “by a predetermined distance” in claim 9 are considered relative absent the claiming of specifics thereof.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-7, 9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wierlacher ‘093.

Claim 1: See Figures, especially Figures 2, and 6-9, page 4, first full paragraph, page 6, lines 15-23, page 7, lines 3-5, page 8, lines 12-17, page 14, line 18-page 15, line 26, page 16, second and third full paragraphs, page 19, line 8-page 22, line 22, page 24, line 3-page 26, line 18, page 26, line 26-page 27, line 1, i.e. the pad is at least absorbent layer 21 which is adjacent the pudendal region and received in the groove between the labia majora, i.e. an interlabial pad, and which has an elongate shape with longitudinal and lateral directions, a body face side and an opposite face, the cavity is defined by 56, 48 and 46 on the opposite face and extends in the longitudinal direction, the finger insertion opening is adjacent 58 and the finger restriction portion is either adjacent 48 where it slopes down longitudinally and converges in the Z-direction if the finger is inserted towards 32b or adjacent the intersection of 46, 52 and 56 if the finger is inserted towards 32a. Claim 1, lines 1, 3-4, 8-9, 10-12, third full section and 17-19 recite

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function, capability or property of the structure therein. Note again the Claim Language Interpretation section with regard to the terminology “in the vicinity” and also paragraph 9 *supra*. It is also noted that the third full section does not set forth any specific points or positions. In light of the portions of Wierlacher cited *supra*, it is the Examiner’s first position that the Wierlacher reference explicitly teaches such function, capability or property of claim. In any case, i.e. the Examiner’s second position, as noted *supra* the claim language recites functions, properties or capabilities of the structure set forth in claim 1. The Wierlacher reference at the very least teaches the structure of claim 1. Therefore there is sufficient factual evidence for one to conclude that such same structure of Wierlacher also inherently includes such claimed functions, properties and capabilities, see MPEP 2112.01.

Claim 2: The minisheet is either 58, or 20b in Figure 7. Note again the Claim Language Interpretation section *supra* with respect to the terminology “mini”.

Claim 3: See the discussion of claim 1 *supra*, i.e. adjacent 48 the cavity narrows in width along the Z-axis or adjacent 52, see Figure 3, the cavity narrows in the width along the Y-axis.

Claim 4: See discussion of claims 1 and 2, *supra*. The minisheet binds the opposite face to itself. It is noted that direct bonding of the face to itself is not claimed.

Claim 5: see discussion of claims 1 and 3 *supra*, i.e. toward 52 in a longitudinal direction from the opening on the right side of 58 or in the Z-direction from 58 to 48.

Claim 6: See Figures and cited portions of Wierlacher *supra*.

Claims 7 and 9: See Claim Language Interpretation section *supra* with respect to the relative language and discussion of finger restrictions *supra*, i.e. absent claiming of specific

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distances relative to the ends and center, the Wierlacher reference is considered to teach the claimed structure.

Claims 12-14: These claims recite functions, properties or capabilities of the structure set forth in claim 1. If not already taught by the Wierlacher, see the portions cited supra, the Wierlacher reference at the very least teaches such structure of claim 1. Therefore there is sufficient factual evidence for one to conclude that such same structure of Wierlacher also inherently includes such claimed functions, properties and capabilities, see MPEP 2112.01.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art also show absorbent articles with finger cavities/restrictions.

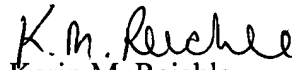
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
July 28, 2005